

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18404.1. Termination and Reopening of Committees.

(a) Pre-2001 Committees. Any candidate controlled committee organized for elective state office for an election held prior to January 1, 2001, must be terminated as set forth in 2 Cal. Code Regs. section 18404 no later than December 31, 2002, except candidates who, as of February 15, 2002, hold elective state office pursuant to an election held prior to January 1, 2001, may retain one pre-2001 controlled committee, subject to the following:

(1) Candidate controlled committees that have no debts must be terminated no later than 9 months after the earliest of the date the candidate leaves office or his or her current term of office ends.

(2) Candidate controlled committees that have debts must be terminated no later than 24 months after the earliest of the date the candidate leaves office or his or her current term of office ends.

(b) 2001 and Post-2001 Committees. Candidate controlled committees organized for elective state office for an election held on or after January 1, 2001, must be terminated as set forth in 2 Cal. Code Regs. section 18404 and as follows:

(1) Candidate controlled committees with no "net debts outstanding," as defined in 2 Cal. Code Regs. sections 18531.6(d) and 18531.61(d), must be terminated no later than 9 months after the earliest of the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends or, for withdrawn candidates, no later than 9 months after the election from which the candidate withdrew.

(2) Candidate controlled committees with "net debts outstanding," as defined by 2 Cal. Code Regs. sections 18531.6(d) and 18531.61(d), must be terminated no later than 24 months

after the earliest of the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends or, for withdrawn candidates, no later than 24 months after the election from which the candidate withdrew.

(3) Candidates defeated in elections that were held after January 1, 2001, but prior to the effective date of this regulation, February 15, 2002, shall terminate their committees 9 months from the effective date of this regulation if the committee has no net debts outstanding, as defined in 2 Cal. Code Regs. section 18531.6, and [24](#) months from the effective date of this regulation if the committee has outstanding debts.

(c) Campaign Bank Accounts. On or before termination of the candidate controlled committee, the campaign bank account associated with that committee must be closed. No further activity, including receipt of contributions or making of payments, is allowed after the date of the termination of the committee unless the committee and a campaign bank account are reopened pursuant to this regulation. Contributions received while a committee is closed after the termination of the committee must be returned to the contributors. Contributions received by a committee reopened in accordance with this regulation are subject to the limits applicable to the election for which the committee was originally formed as well as 2 Cal. Code Regs. sections 18531.6, 18531.61 and 18536.

(d) Local Committees. Candidates who are elected to an elective state office must terminate any controlled committees formed for local elections held concurrent with or prior to their election to state office. Such termination shall be pursuant to 2 Cal. Code Regs. section 18404 and shall be no later than December 31, 2002 for committees formed by candidates who currently hold elective state office pursuant to an election held prior to January 1, 2001, and within 24 months of the candidate's election to state office if he or she is elected on or after January 1, 2001.

(e) Creditors' Notice. The committee shall give at least 60 days notice of its impending termination to all creditors. Such notice shall include the date upon which the committee expects to file its terminating statement of organization.

(f) Requests for Extensions. A committee may submit a request to the Executive Director of the Fair Political Practices Commission for an extension of up to six months' duration in which to comply with the requirements of this section. Such a request shall be submitted to the Executive Director no later than 45 days prior to the original due date for the committee's termination, and shall include evidence supporting any of the factors set forth in subdivisions (f)(1) through (f)(3) of this regulation upon which the committee is basing its request for extension. Requests to renew the extension for additional periods of up to six months must be submitted to the Executive Director no later than 45 days prior to the expiration of the prior extension. If the request for extension is received by the Executive Director fewer than 45 days prior to the original due date or the expiration of any prior extension, the request for extension is automatically denied. The Executive Director may, for good cause shown, waive this requirement.

Within 15 days after a request for extension that is timely filed is received by the Executive Director, the committee making the request shall be notified in writing of the decision of the Executive Director. If the request for extension is denied, the notification shall state the reason for the denial and shall advise the committee whether the committee may request an appeal to the Chairman pursuant to 2 Cal. Code Regs. section 18404.1(g). However, an automatic denial or a late-filed request that is waived by the Executive Director is not subject to the appeal procedure of 2 Cal. Code Regs. section 18404.1(g), unless such appeal is authorized in writing by the Executive Director. The Executive Director's authorization of such appeal, if given, shall specify a date no less than 10 days before the termination deadline by which such an

appeal must be filed. For late-filed requests, the written notification shall issue prior to that time period.

In denying or granting the request for extension, the Executive Director; shall consider the following:

(1) Whether the committee:

(A) Is continuing to receive contributions toward its outstanding debts;

(B) Has, in the previous 6 months, raised significant funds toward its outstanding debts;

(C) Demonstrates the ability to discharge its debts, loans and other obligations; and

(D) Has filed all required campaign statements; or

(2) Whether the candidate or committee is a party to litigation arising out of his or her candidacy or status as an elected official, or anticipates the filing of such litigation; or

(3) Other good cause shown.

(g) Appeals of Denials of Requests for Extensions. When the Executive Director notifies a committee that files a timely request for extension that its request has been denied, the Executive Director shall establish and state a deadline by which the committee may submit any appeal of the denial of its request for extension to the Chairman. The deadline shall be no less than 10 days after transmittal of the notification of the denial of the request for extension. Any such appeal shall:

(1) Be submitted to the Commission offices either in person, by fax, or by overnight delivery service;

(2) Include all evidence submitted with the original request for extension supporting any of the factors set forth in subdivisions (f)(1) through (f)(3) of this regulation upon which the committee is basing its request for extension; and

(3) Directly address the reasons for the denial of the request stated in the Executive

Director's notification to the committee.

The Chairman's decision shall be final, and may not be appealed to the Commission.

(h) Local Candidate Controlled Committees. This regulation does not apply to local candidate controlled committees, except as provided in subdivision (d) of this regulation.

(i) Reopening of Terminated Committees. A committee subject to the requirements of this regulation may submit a request to the Executive Director to reopen for any of the following reasons:

(1) To receive a refund or similar payment received after termination of the committee;

(2) To pay a fine as permitted under Government Code section 89513(c);

(3) To pay expenses incurred in connection with an audit or investigation of the committee under this title;

(4) To pay litigation expenses as permitted under Government Code sections 89513 and 89514, other than expenses subject to Government Code sections 85304 and 2 Cal. Code Regs. section 18530.4; or

(5) For any other good cause shown that would further the disclosure requirements or contribution limits of this title.

(j) Expenditure of a refund or similar payment under this regulation must be made consistent with Government Code sections 89510-89519, as applicable, including payment of debts that the committee declared it had no intention or ability to discharge under 2 Cal. Code Regs. section 18404. In addition, the reopening of a committee to receive payments and make expenditures must be in compliance with Government Code sections 85316 and 85321 and 2 Cal. Code Regs. sections 18531.6 and 18531.61. A determination by the Executive Director under this regulation does not constitute a determination regarding the applicability of the statutes and regulations referenced in this subdivision.

(k) Procedures for Reopening Terminated Committees. In order for the committee's reopening to be effective, the committee must:

(1) Request and receive approval to reopen the committee from the Executive Director of the Fair Political Practices Commission as specified in this subdivision. The purpose(s) for requesting the reopening of the committee must be included in the request. Within 15 days after a request is received by the Executive Director, the requestor shall be notified in writing of the decision of the Executive Director. In denying or granting the request, the Executive Director shall consider whether the proposed purpose(s) for reopening the committee are as specified in subdivision (i) of this regulation, and specify the purpose(s) for reopening the committee in the notification if the request is granted. If the request is denied, the notification shall state the reason for the denial and advise the requestor of the right to appeal the decision to the Chairman within 10 days after the date of the transmittal of the denial notification. Any such appeal shall:

(A) Be submitted to the Commission Offices either in person, by fax, or by overnight delivery service;

(B) Include all material, if any, submitted with the original request to reopen supporting any of the permissible reasons for reopening as set forth in subdivision (i) of this regulation upon which the committee is basing its request; and

(C) Directly address the reasons for the denial of the request stated in the Executive Director's notification to the committee.

The Chairman's decision shall be final, and may not be appealed to the Commission.

(2) File an amendment to Form 410 (Statement of Organization) declaring the committee's reopening with the Secretary of State along with written authorization from the Executive Director granting the reopening of the committee;

(3) Mark "Amendment" on the Form 410 and list the committee's original identification

number and name;

(4) Include the word "Reopened" in parentheses after the committee name on the Form 410; and

(5) File a copy of the amended statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Government Code section 84215.

(l) Filing Requirements. A reopened committee is subject to all of the committee filing requirements of this title including those specified in subdivision (k) of this regulation.

(m) Termination of Reopened Committees. Unless the Executive Director specifies a date of termination in his or her notification, a reopened committee must terminate pursuant to the requirements of 2 Cal. Code Regs. sections 18404(b) and (c) within 30 days of the date the specified purpose(s) for which the committee was reopened ceases to exist. The Executive Director may specify in his or her notification the projected date of completion and the date of termination for the reopened committee. If the reopened committee required additional time before terminating for a purpose or purposes other than specified in its initial request for reopening under subdivision (k), or the Executive Director specifies a date of termination in his or her notification and the reopened committee requires additional time to complete the original reopening purpose, then the committee must reapply for and receive approval of the Executive Director under the same procedures and timelines set forth in subdivision (k)(1), prior to the termination date for the reopened committee.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84102, 84103, 84214 and 84215, Government Code.

HISTORY

1. New section filed 2-14-2002; operative 2-15-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 7).
2. Amendment of subsections (a)-(a)(2) filed 9-12-2002 as a change without regulatory effect. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2002, No. 37).
3. Amendment of subsections (f), (f)(1)(B) and (f)(1)(D), new subsections (g)-(g)(3) and subsection relettering filed 7-29-2003; operative 7-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 31).
4. Amendment of section heading and subsections (b)(1)-(f), (f)(1)(B), (g) and (h), new subsections (i)-(m) and amendment of Note filed 7-27-2004; operative 7-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 31).